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FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

JUN 06 2006 *Ag*
at 3 o'clock and 45 min P M
SUE BEITIA, CLERK

CASE LOMBARDI & PETTIT

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GMP HAWAII, INC.

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

SYNAGRO TECHNOLOGIES, INC.,

Plaintiff,

vs.

CIVIL NO. CV04-00509 SPK LEK

**DEFENDANT GMP HAWAII,
INC.'S OBJECTIONS TO
AMENDED BILL OF COSTS**

(caption continued on next page)

GMP HAWAI'I, INC.,
Defendant.

**FILED HEREIN ON MAY 26,
2006; CERTIFICATE OF
SERVICE**

**DEFENDANT GMP HAWAI'I, INC.'S OBJECTIONS TO
AMENDED BILL OF COSTS FILED HEREIN ON MAY 26, 2006**

Defendant GMP HAWAI'I, INC. ("GMP"), by and through its co-counsel, CASE LOMBARDI & PETTIT, hereby submits the following objections to Plaintiff SYNAGRO TECHNOLOGIES, INC.'S ("Synagro"'s) Amended Bill of Costs filed herein on May 26, 2006. Synagro's Amended Bill of Costs should be denied for the following reasons:

1. Synagro's Amended Bill of Costs, in its entirety, is untimely pursuant to Local Rule 54.2(b). Synagro claims that it is the "prevailing party in whose favor judgment was entered" herein on January 11, 2006 by way of the Court's Summary Judgment Order. If it is indeed the prevailing party as of that date, Synagro waived such costs when it did not file a Bill of Costs by February 10, 2006 (within thirty days of the alleged entry of judgment);

2. In the alternative, Synagro's Amended Bill of Costs is premature, in that Synagro admits that no judgment or other order pursuant to L.R. 54.2(b) has been entered by the Court, **see** Amended Bill of Costs at 2. Pursuant to L.R. 54.2(b), a Bill of Costs may only be submitted "within

thirty (30) days after the entry of judgment, the entry of an order denying a motion filed under Fed. R. Civ. P. 50(b), 52(b), or 59, or an order remanding to state court any removed action,” and as such the instant Amended Bill of Costs is premature and must be denied in its entirety; and

3. The Stipulation and Order to (1) Vacate Trial Date, Trial-Related Deadlines, (2) Set Briefing on Plaintiff’s Motion for Attorneys’ Fees and Costs, and (3) Dismiss Claims, filed herein on March 30, 2006, does not address nor include an “agreement regarding entitlement to taxation of costs,”¹ and according to Local Rule 54.2(a), Synagro must therefore bear its own taxable costs as a result of settling the action.

Based upon the foregoing, GMP respectfully requests that the Clerk and this Court deny Synagro’s Amended Bill of Costs.

¹ Because the Stipulation does not address taxation of costs by the clerk, these objections are being submitted in accordance with the time limits set forth in Local Rule 54.2(d). However, should the Court decide to address Synagro’s Amended Bill of Costs for taxable costs pursuant to the Court’s Minute Order regarding Synagro’s Motion for Attorneys’ Fees and Related Non-Taxable Expenses, filed herein on May 10, 2006, GMP will further submit a Memorandum in Opposition to the instant Amended Bill of Costs by or on June 23, 2006 in accordance therewith.

DATED: Honolulu, Hawaii, JUN 06 2006

A handwritten signature in cursive script, appearing to read "Michael M. Marsh", written over a horizontal line.

MICHAEL M. MARSH
TED N. PETTIT
JOHN D. ZALEWSKI
MALIA S. LEE
Co-Counsel for Defendant
GMP HAWAI'I, INC.

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vs.

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CERTIFICATE OF SERVICE

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The undersigned hereby certifies that a true and correct copy of the foregoing was duly served upon the parties listed below at their last known addresses by U.S. Mail, postage pre-paid on the date stated below:

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DATED: Honolulu, Hawaii, JUN 06 2006



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